



## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

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### Table Mountain Rancheria; Liquor Control Ordinance

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

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**SUMMARY:** This notice publishes the Liquor Control Ordinance of Table Mountain Rancheria. The Table Mountain Rancheria Liquor Control Ordinance regulates and controls the possession, sale, manufacture, and distribution of alcohol in conformity with the laws of the State of California.

**DATES:** This ordinance shall become effective [Insert date 30 days after publication in the FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Mr. Harley Long, Tribal Government Officer, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Room W-2820, Sacramento, California 95825, Telephone (916) 978-6000, Fax: (916) 978-6099.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the *Federal Register* notice of adopted liquor control ordinances for the purpose of regulating liquor transactions in Indian country. The Table Mountain Rancheria adopted the Table Mountain Rancheria Liquor Control Ordinance on June 7, 2021.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary–Indian Affairs. I certify that the Tribal Council of the Table Mountain Rancheria duly adopted the Table Mountain Rancheria Liquor Control Ordinance on June 7, 2021.

**Bryan Newland,**  
*Assistant Secretary–Indian Affairs.*

Table Mountain Rancheria’s Liquor Control Ordinance shall read as follows:

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LIQUOR CONTROL ORDINANCE  
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**ARTICLE ONE**

**GENERAL PROVISIONS**

**Section 1.1 Title**

This Ordinance shall be known as Table Mountain Rancheria Liquor Control Ordinance.

The short title of this Ordinance shall be referred to as the “Liquor Control Ordinance.”

**Section 1.2 Authority**

This Liquor Control Ordinance is enacted pursuant to the Act of August 15, 1953 (Pub. L. 83-277, 67 Stat. 586, 18 U.S.C. 1161) and the powers vested in the Tribal Council of Table Mountain Rancheria (“Tribal Council”) to promulgate and adopt legislation, regulations and ordinances under Article VII, Section 1 of the Constitution of Table Mountain Rancheria.

### **Section 1.3 Purpose**

The purpose of this Liquor Control Ordinance is to regulate and control the consumption, possession, sale, manufacture, and distribution of liquor within Lands under the Jurisdiction of Table Mountain Rancheria (“Tribe”), including its Reservation and/or Rancheria (“Reservation”), in order to permit alcohol sales by tribally owned and operated enterprises and private lessees, and at tribally approved special events. The enactment of this Liquor Control Ordinance will help promote a source of revenue for the continued operation of the tribal government, the delivery of governmental services, and the economic viability of tribal enterprises.

### **Section 1.4 Jurisdiction**

This Liquor Control Ordinance shall apply to all Lands now or in the future under governmental control or authority of the Tribe, including, but not limited to, the Tribe’s current Reservation, as well as any Lands that may be taken into trusts for the Tribe in the future.

### **Section 1.5 Application of 18 U. S. C. § 1161**

By adopting this Liquor Control Ordinance, the Tribe hereby regulates the sale, manufacturing, distribution, possession and consumption of liquor while ensuring that such activity conforms with all applicable laws of the State of California as required by §18 U. S. C. 1161 and the United States.

### **Section 1.6 Declaration of Public Policy; Findings**

The Tribal Council enacts this Liquor Control Ordinance based upon the following findings:

- (a) The distribution, manufacturing, possession, consumption and sale of liquor on the Tribe's Reservation is a matter of special concern to the Tribe.
- (b) The Tribe is the beneficial owner of the Reservation, upon which the Tribe operates gaming and related dining, entertainment and lodging facilities.
- (c) The Tribe's gaming facility serves as an integral and indispensable part of the Tribe's economy, providing revenue to the Tribe's government and employment of its tribal citizens and others in the local community.
- (d) Federal law, as codified at §18 U.S.C. 1154 and 1161, currently prohibits the introduction of liquor into Indian country, except in accordance with state law and the duly enacted laws of the Tribe.
- (e) The Tribe recognizes the need for strict control and regulation of liquor transactions on lands under the Tribe's jurisdiction because of the potential problems associated with the unregulated or inadequately regulated sales, possession, manufacturing, distribution and consumption of liquor.
- (f) Regulating the possession, sale, distribution, consumption and manufacture of liquor within Lands under the Tribe's jurisdiction is also consistent with the Tribe's interests in ensuring the peace, safety, health, and general welfare of the Tribe and its citizens.
- (g) Tribal control and regulation of liquor on Lands under the Tribe's Jurisdiction is consistent with the Tribe's custom and tradition of controlling the possession and consumption of liquor on tribal lands, and at tribal events.
- (h) The purchase, distribution, manufacturing, consumption, possession and sale of liquor on Lands under the Tribe's Jurisdiction shall take place only at duly

licensed (i) tribally owned enterprises, (ii) other enterprises operated pursuant to a lease with the Tribe, and (iii) tribally – sanctioned events.

- (i) The sale, consumption, possession or other commercial manufacture or distribution of liquor on Lands under the Tribe's Jurisdiction, other than sales, consumption, possession, manufacture and distributions made in strict compliance with this Liquor Control Ordinance, is detrimental to the health, safety, and general welfare of the citizens of the Tribe, and is prohibited.

## **ARTICLE TWO**

### **DEFINITIONS**

#### **Section 2.1 Terms Defined**

As used in this Liquor Control Ordinance, the terms set forth below shall have the following definition:

- (a) *Alcohol* means ethyl alcohol, hydrated oxide of ethyl, or other distilled spirits, in any form, regardless of the source or the purpose used for its production.
- (b) *Alcoholic Beverage* means all alcohol, spirits, liquor, wine, beer and any liquid or solid containing alcohol, spirits, liquor, wine, or beer, and which contains one – half of 1% or more of alcohol by volume and that is fit for human consumption, either alone or when diluted, mixed, or combined with any other substance(s).
- (c) *Compact* means the State Compact entered between the State of California and the Tribe that governs the conduct of Class III gaming activities on the Reservation pursuant to the Indian Gaming Regulatory Act.
- (d) *Lands* means all real property currently held in trust by the United States for the benefit of the Tribe; as well as all real property that may be taken into to trust in the future for the benefit of the Tribe.
- (e) *Lands under the Tribe's jurisdiction* means and includes all Lands now or in the future under the governmental authority or control of the Tribe.

- (f) *License* means, unless otherwise stated, a license issued by the Tribe in accordance with this Liquor Control Ordinance.
- (g) *Liquor* means any alcoholic beverage, as defined under this section.
- (h) *Person* means any individual or entity, whether Indian or non-Indian, receiver, assignee, trustee in bankruptcy, trusts, estate, firm, corporation, partnership, joint venture, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, and any other Indian tribe, band or group. The term shall also include the businesses of the Tribe.
- (i) *Tribe* means Table Mountain Rancheria, a federally recognized Indian Tribe that is listed in the Federal Register.
- (j) *Sale and Sell* means the transfer for consideration of any kind, including by exchange or barter.
- (k) *State* means the State of California.
- (l) *Reservation* means all Lands held in trust by the United States for the benefit of Table Mountain Rancheria.

## **ARTICLE THREE**

### **LIQUOR SALES, POSSESSION, CONSUMPTION AND MANUFACTURE**

#### **Section 3.1 Possession and Consumption of Alcohol.**

The introduction, consumption and possession of alcoholic beverages shall be lawful within Lands under the Tribe's Jurisdiction; provided that such introduction, consumption or possession is in conformity with the laws of the State and this Liquor Control Ordinance.

#### **Section 3.2 Retail Sales of Alcohol.**

The sale of alcoholic beverages shall be lawful within Lands under the Jurisdiction of the Tribe; provided that such sales are in conformity with the laws of the State and are made pursuant to a license issued by the Tribe.

#### **Section 3.3 Manufacture of Alcohol.**

The manufacture of beer and wine shall be lawful within Lands under the Jurisdiction of the Tribe, provided that such manufacture is in conformity with the laws of the State and pursuant to a license issued by the Tribe.

#### **Section 3.4 Age Limits.**

The legal age for possession or consumption of any alcoholic beverage within Lands under the Jurisdiction of the Tribe shall be the same as that of the State, which is currently 21 years. No person under the age of 21 years shall purchase, possess or consume any alcoholic beverage. If there is a conflict between state law and the terms of the Compact regarding the age limits for alcoholic beverage possession or consumption, the age limits in the Compact shall govern for purposes of this Liquor Control Ordinance.

### **ARTICLE FOUR**

#### **POWER OF THE TRIBAL COUNCIL**

##### **Section 4.1 Licensing.**

The Tribal Council shall have the power to issue a license under this ordinance for the sale, manufacture, distribution or possession of liquor on its Lands; as well as the power to establish procedures and standards for tribal licensing of liquor sales, manufacture, distribution and possession within Lands under the Jurisdiction of the Tribe, including the setting of a license fee schedule, and shall have the power to publish and enforce such standards; provided that no Tribal license shall issue except upon showing of satisfactory proof that the applicant is duly licensed by the state. The fact that an applicant for a Tribal license possesses a license issued by the state shall not provide the applicant with an entitlement to a Tribal License. The Tribal Council may in its discretion set standards which are more, but in no case less, stringent than those of the state.

### **ARTICLE FIVE**

#### **POWER TO ENFORCE**

##### **Section 5.1 Enforcement.**

The Tribal Council shall have the power to develop, enact, promulgate and enforce regulations as necessary for the enforcement of this Liquor Control Ordinance and to protect the public health, welfare and safety of the Tribe and Lands under the Jurisdiction of the Tribe, provided that all such regulations shall conform to, and not be in conflict with, any applicable tribal, federal or state law. Regulations enacted pursuant to this Liquor Control Ordinance may include provisions for the suspension or revocation of a tribal liquor license, reasonable search and seizure provisions, and civil and criminal penalties for the violation of the Liquor Control Ordinance to the full extent permitted by federal law and consistent with due process.

(a) Tribal law enforcement personnel and security personnel duly authorized by the Tribal Council shall have the authority to enforce this Liquor Control Ordinance by confiscating any liquor sold, possessed, distributed, manufactured or introduced within the Lands under the Jurisdiction of the Tribe in violation of this Liquor Control Ordinance or of any regulations duly adopted under or pursuant to this Liquor Control Ordinance.

(b) The Tribal Council shall have the exclusive jurisdiction to hold hearings on violations of this Liquor Control Ordinance and any procedures or regulations adopted under or pursuant to this Liquor Control Ordinance; to promulgate appropriate procedures governing such hearings; to determine and enforce penalties or damages for violations of this Liquor Control Ordinance; and delegate to subordinate hearing officer or panel the authority to take any or all of the foregoing actions on its behalf.

## **ARTICLE SIX**

### **TAXES**

#### **Section 6.1   Taxation.**

Nothing contained in this Liquor Control Ordinance is intended to, nor does in any way, limit or restrict the Tribe's ability to impose any tax upon the sale or consumption of liquor or any alcoholic beverage. The Tribe retains the right to impose such taxes by appropriate statute or ordinance to the full extent permitted by federal law.

## **ARTICLE SEVEN**

### **MISCELLANEOUS PROVISIONS**

#### **Section 7.1 Sovereign Immunity Preserved.**

Nothing contained in this Liquor Control Ordinance shall be deemed or construed as a waiver of the Tribe's sovereign immunity or is intended to be construed, anyway, to limit, alter, restrict, or waive the sovereign immunity of the Tribe or any of its officers, entities or agents. All inherent sovereign rights of the Tribe, its officers, entities and/or agents are hereby expressly reserved, including the Tribe's sovereign immunity from unconsented suits or actions of any kind.

#### **Section 7.2 Conformance with Applicable Laws.**

All acts and transactions under this Liquor Control Ordinance shall be in conformity with the Compact and the laws of the State to the extent required by §18 U.S.C. 1161, and with all federal laws regarding alcohol in Indian Country.

#### **Section 7.3 Effective Date.**

This Liquor Control Ordinance shall be effective as of the date on which the Secretary of Interior certifies this Ordinance and publishes the same in the ***Federal Register***.

#### **Section 7.4 Repeal of Prior Acts.**

All prior enactments of the Tribal Council, including tribal resolutions, policies, regulations, statutes or ordinances pertaining to the subject matter set forth in this Liquor Control Ordinance are hereby rescinded.

#### **Section 7.5 Amendments.**

This Liquor Control Ordinance may only be amended pursuant to an amendment duly enacted by the Tribal Council and certified by the Secretary of Interior and published in the *Federal Register*, if required.

**Section 7.6 Severability and Savings Clause.**

If any part or provision of this Liquor Control Ordinance is held invalid, void or unenforceable by a court of competent jurisdiction, such adjudication should not be held to render such provisions inapplicable to the other persons or circumstances. Furthermore, the remainder of the ordinance shall not be affected and shall continue to remain in full force and effect.

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